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## *Senate* UNSCOM

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Mr. BIDEN. Mr. President, no one should doubt for a moment the resolve of the United States to respond with force, if necessary, to Iraq's continued flagrant violation of United Nations Security Council resolutions.

Vigorous diplomacy has been pursued over the past three months, but, thus far, Saddam Hussein has shown that he has no interest in a peaceful solution on anything other than his own terms. We cannot allow this tyrant to prevail over the will of the international community. Our national security would be seriously compromised by a failure to stand up to the challenge he has confronted us with.

Our strategic objective is to contain Saddam Hussein and curtail his ability to produce the most deadly weapons known to mankind--weapons that he has unleashed with chilling alacrity against his own people. Left unchecked, Saddam Hussein would in short order be in a position to threaten and blackmail our regional allies, our troops, and, indeed, our nation.

Let me take just a moment to recount how we have come to the point where military force may be employed in the near future.

For nearly seven years, Iraq has engaged in a cat and mouse game with the international inspectors that comprise the United Nations Special Commission. It has obstructed UNSCOM from fulfilling its mandate to monitor, investigate, and destroy Iraq's capacity to produce weapons of mass destruction.

In spite of Iraq's tenacious efforts at concealment and

obstruction, UNSCOM has uncovered and destroyed more weapons of mass destruction than were destroyed during the entire gulf war. UNSCOM has revealed Iraqi lie after Iraqi lie.

Last October, Iraq threatened to expel all American members of the special commission. Ambassador Richard Butler, the chairman of UNSCOM, responded appropriately by withdrawing all inspectors rather than having his staff of professionals segregated on the basis of their nationality.

The ensuing stand-off led to diplomatic intervention by Russia. Eventually, Iraq relented by allowing UNSCOM back into the country.

But the central issue of unconditional and unfettered access by UNSCOM was left unresolved. Ambassador Butler visited Baghdad in December to try to resolve this issue, but to no avail.

Then, last month, Iraq refused to cooperate with a team of inspectors investigating Iraq's efforts at concealment. It made preposterous charges that the American head of the team, Scott Ritter, was a spy.

During a subsequent visit by Ambassador Butler, Iraq struck a defiant note. It vowed never to open so-called 'presidential and sovereign sites' to inspection. In a recent speech, Saddam Hussein stated his decision to expel UNSCOM by May 20 if sanctions remain in place.

The United Nations Security Council has repeatedly condemned Iraq's non-compliance. Since October of

last year, on seven separate occasions, the Security Council has demanded that Iraq fulfill its obligations.

But Saddam Hussein has made clear that it is more important to him to retain the capacity to produce weapons of mass destruction than it is to comply with the resolutions that would allow sanctions to be lifted. Once again he has proven what little regard he has for the suffering of his people.

The international community has exhibited enormous patience with Iraq . But that patience has reached its limit.

Time has run out. If Iraq does not comply immediately and unconditionally with United Nations Security Council resolutions demanding unfettered access for U.N. weapons inspectors, I believe that President Clinton will have no choice but to order the use of air power.

Unfortunately, we have learned over the past several years that the Iraqi Government, and more specifically its leader, only seem to understand the blunt language of force.

In recent weeks, several questions and criticisms have been raised with respect to President Clinton's policy. I would like to take a moment to respond to some of these comments.

Questions have been asked about our objectives. The objectives have been defined precisely. They are to curtail and delay Saddam Hussein's capacity to produce and deliver weapons of mass destruction and his ability to threaten his neighbors. We have been told by the Joint Chiefs of Staff that a military plan has been developed that would fulfill these objectives.

In a sense, the international coalition now assembling forces in the Persian Gulf will accomplish through the use of force what UNSCOM would be doing were it allowed to do its job. Secretary Cohen has told us that there is no substitute for having UNSCOM on the ground, but we are left with little choice if UNSCOM is prevented from carrying out its duties.

When the objectives have been explained, the next question that arises is what are the next steps. But this

question is based upon the flawed premise that the use of force reflects a new policy. In fact, the use of force for the purposes outlined by the President is an integral part of the long-standing policy of containing Iraq .

Containment is a very unsatisfying policy at an emotional level. It lacks finality and it requires patience and staying power. But it meets our strategic objective of preventing Iraq from threatening our national security interests.

Containment is the best of three bad options available to us. The other two options would be to do nothing, or to send in several hundred thousand ground troops to occupy Iraq . Neither of these policies is viable.

Doing nothing would encourage Iraqi defiance and lead to a complete collapse of the constraints that have been placed upon Iraqi behavior since the end of the gulf war. It would be the surest way to rehabilitate Saddam Hussein.

Just as unpalatable is the prospect of sending in several hundred thousand ground troops to change the Iraqi regime. I believe that there is little support for such an operation in the Congress or the public. It would also raise a series of questions:

Would we be prepared to occupy and rebuild Iraq over a period of several years?

Would we be prepared for the real possibility that a march on Baghdad might lead Saddam Hussein to unleash his weapons of mass destruction?

Would any other nation support us for an action that is clearly outside the bounds of security council resolutions? To this point those resolutions have provided the basis for all U.S. military action against Iraq since the gulf war.

In the end, the only policy that stands up to scrutiny is that of containment, which the Clinton administration has followed and the Bush administration before it followed.

Finally, another question that has arisen is whether the President should obtain specific authorization to use

force. I believe that the President would be wise to obtain such authorization.

The executive branch contends that it already has sufficient legal authority, under Public Law 102-1--the use of force resolution passed by Congress before the gulf war. The argument, as I understand it, may be summarized as follows:

In Public Law 102-1, Congress authorized the President to use United States Armed Forces:

'Pursuant to United Nations Security Council Resolution 678. Security Council Resolution 678, passed by the Council in November, 1990, authorized members of the United Nations to 'use all necessary means to uphold and implement Resolution 660 (1990) (The resolution which called for Iraqi forces to leave Kuwait) and all subsequent relevant resolutions and to restore international peace and security in the [Persian Gulf] area.'

Following the gulf war, in April, 1991, the Security Council passed Resolution 687, which set the terms of the cease-fire and required Iraq to accept the destruction or removal, under international supervision, of its weapons of mass destruction. By its terms, it reaffirmed Resolution 678, and all prior council resolutions regarding Iraq .

Because Security Council Resolution 678 provided broad authority for nations to enforce 'all subsequent relevant resolutions' and 'to restore peace and security in the area,' and, because peace and security has not been restored to the Persian Gulf--indeed, Iraq is currently in violation of the cease-fire resolution--then the resolutions from 1990 and 1991, both by the Security Council and Congress, the administration contends, would still have legal force.

Moreover, Congress has never modified or repealed Public Law 102-1, so absent further congressional action, and absent the restoration of peace and security to the gulf, the President still has the legal authority to use military action against Iraq . Or so the administration's argument goes.

As a strong advocate of Congress exercising its powers under the Constitution in authorizing the use

of force, I must admit to some skepticism about this theory. In my own research of the question, I have consulted several eminent constitutional scholars. My conclusion is that the administration's argument may be legally tenable--if barely so--and would probably be sustained in a court of law.

But merely because the position may be legally sufficient--and the courts are notoriously deferential to the executive in matters of war and peace (if they agree to consider the case at all)--I do not believe it would be wise precedent, or wise policy, of the President to proceed with renewed military action against Iraq without a clear authorization, newly enacted by this Congress. Indeed, because the question is a close one--and because we have a different President than we did in 1991, and a significant change in the membership of Congress since that time--it would be prudent for President Clinton to seek a new expression of legal authorization from Congress.

Mr. President, we should all hope for a genuine diplomatic solution to this stand-off, but no one should doubt our resolve to use force if it becomes necessary.

We have little choice in this matter. Important principles and vital national interests are at stake.

First and foremost, an Iraq left free to develop weapons of mass destruction would pose a grave threat to our national security. The current regime in Iraq has repeatedly demonstrated its aggressive tendencies toward its neighbors. It has also displayed a callous willingness to use chemical weapons to achieve its aims.

Recently, we have heard chilling reports of possible biological weapons experiments on humans. An UNSCOM Inspector has spoken of information that points to a secret biological weapons production facility. And Ambassador Richard Butler has told us that Iraq could well have missile warheads filled with anthrax capable of striking Tel Aviv.

An asymmetric capability of nuclear, chemical, and biological weapons gives an otherwise weak country the power to intimidate and blackmail. We risk

sending a dangerous signal to other would-be proliferators if we do not respond decisively to Iraq's transgressions. Conversely, a firm response would enhance deterrence and go a long way toward protecting our citizens from the pernicious threat of proliferation.

Second, a failure to uphold United Nations resolutions would diminish the credibility of the Security Council. As much as we might like to deal with every threat we face on our own, in reality it is impractical and unrealistic. Instinctively, we all know that we are much better off when we have the support of the international community when facing common threats.

But in order for the Security Council to respond effectively to threats to international peace and security that might arise in the future, it is important that those who would violate the will of the international community pay a steep price for their

actions. Iraq offers an important test case for the Security Council. Capitulating to Iraqi defiance could spell a dismal future for the Security Council in handling the central matters of international peace and security for which it was created.

I hope that the Russians, French, and Chinese keep in mind that it is not in their interest to see the authority of the Security Council diminished.

It is difficult to overstate the stakes involved.

Fateful decisions will be made in the days and weeks ahead. At issue is nothing less than the fundamental question of whether or not we can keep the most lethal weapons known to mankind out of the hands of an unreconstructed tyrant and aggressor who is in the same league as the most brutal dictators of this century.